

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaint Reference: 01/11

Member subject to allegation	District Councillor Dr Del Booth
Investigating Officer	Mr. Michael Blamire-Brown
Date of report:	29th February 2012
Name of Member's representative:	N/A
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	24th May 2012
Names of Standards Committee members:	
Chairman:	Mr. N. A. Burke Ms. K. J. Sharpe Mr. I. A. Hodgetts Councillor S. R. Colella Councillor J. Brogan (substituting for Councillor Mrs. M. Sherrey) Councillor Mrs. S Baxter
Standards Committee Legal Adviser:	Mrs. S. Sellers
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation and subject matter of complaint

On 23rd November 2011 the Standards Assessment Sub-Committee considered a complaint made by District Councillor Sean Shannon in relation to District Councillor Dr Del Booth. Councillor Shannon complained that Councillor Booth had breached the Code of Conduct by failing to declare a personal and prejudicial interest at a meeting of the Cabinet on 5th October 2011. The matter under consideration at the meeting was the transfer of land comprising the recreation ground at Housman Close, Charford, Bromsgrove to Bromsgrove District Housing Trust (BDHT). The complaint alleged that Councillor Booth owns land and a dwelling house at 15 Housman Close which overlooks the former play area and that he remained in the room and participated in the discussion about the transfer of the land. Councillor Shannon was of the view that as a result of the Cabinet decision the value of Councillor Booth's property would increase and that therefore he should have declared a personal and prejudicial interest.

The Standards Assessment Sub-Committee decided to refer the matter for investigation and the Monitoring Officer appointed Mr. Michael Blamire-Brown as the Investigating Officer.

Summary of the Allegation

That Councillor Booth failed to comply with the Code of Conduct for Bromsgrove District Council by failing to declare a personal interest and a prejudicial interest at the Cabinet meeting of Bromsgrove District Council on 5th October 2011, contrary to paragraphs 9 and 10 of the Bromsgrove District Council Code of Conduct.

Preliminary Issues

The Standards Committee had decided at the consideration meeting on 27th April 2012 to lift the exemption on the complaint being considered in private session. Accordingly the committee report and the Investigating Officer's report were released into the public domain with the papers being redacted to remove any personal information.

The Standards Committee considered this issue again at the start of the hearing and no representations having been made to ask for any part of the hearing to be held in private the Committee agreed to proceed with the hearing in public session.

Summary of submissions by the Investigating Officer

Mr. Blamire-Brown confirmed that the contents of his report were correct and accurate. He summarised the inquiries he had made and addressed the Committee in relation to the facts, none of which were in dispute. He confirmed that Councillor Booth had co-operated fully in the investigation.

He explained to the Committee the reasoning that had led him to reach the view that Councillor Booth had a personal interest in the decision on 5th October 2011 but did not have a prejudicial interest.

He summarised the relevant tests under the Code of Conduct and how these related to the facts of the case. He confirmed that due to the proximity of Councillor Booth's house to the site in question a personal interest applied. In relation to a prejudicial interest this did not arise.

Specifically under paragraph 10 (2) of the Code of Conduct a prejudicial interest will not apply where the business being considered "does not affect your financial position". Mr. Blamire-Brown had considered the issue of whether the transfer of the land and subsequent construction of social housing on it would lead to a rise in property prices. Based on the evidence he had been able to find on this point his view was that property prices will be governed by a number of factors including the housing market generally, demand in the local area, the area in which a property is located and the state of repair of the property. It was not possible to reach a definite conclusion that in the circumstances of the case the development of the recreation land would materially affect the value of 15 Housman Close.

Summary of submissions by the Subject Member

Councillor Booth was present at the hearing but was not represented. Councillor Booth did not seek to dispute any of the facts in the Investigating Officer's report and did not call any witnesses.

Councillor Booth apologised for not having declared a personal interest at the Cabinet meeting. He confirmed that he had considered the issue but had formed the view that the transfer of the recreation land would not affect his well-being. His property did not share any common boundary with the land; he had not been aware of any problems concerning the use of the land for alleged anti social behaviour and given the location of Housman Close he did not believe that the public would perceive the development of social housing on the land as making any difference.

He went on to explain that having talked the matter over with Mr. Blamire-Brown as part of the investigation he could now see that the proximity of his house to the site should have alerted him to the fact that his well-being might be affected and that he should have taken advice. He told the Committee that he would be much more cautious in the future and would always think carefully and seek advice if similar situations arose.

Findings of fact

The Committee made the following decision:

That the facts set out at paragraphs 5.1 (a) to (u) of the Investigating Officer's Report were undisputed and would be adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standard Committee found that Councillor Booth had failed to follow the Code of Conduct by not declaring a personal interest at the Cabinet meeting of Bromsgrove District Council 5th October 2011 contrary to paragraph 9 of the Bromsgrove District Council Code of Conduct.

The reasons for the Committee's decision were as follows:-

- that the facts as adopted lead to the conclusion that the Code was breached;
- that Councillor Booth accepted that there was a breach of the Code; and
- that the Committee agreed with the analysis of the reasons for the breach as set out in Part 8 of the Investigating Officer's report.

The Sanctions imposed and reasons for them

The Committee gave careful consideration to the issue of imposing a sanction and was referred to guidance previously published by the Adjudication Panel for England and Standards for England in this regard.

The Committee has decided to impose a sanction as follows:

That Councillor Booth attend one of the training sessions for Members on the Code of Conduct which are scheduled to take place on 13th, 18th and 20th June 2012, or in the event that he is unable to attend one of those sessions, such other training on the Code of Conduct as may be arranged for him by the Monitoring Officer.

In considering the penalty the Committee has had regard to the following:

- that Councillor Booth has not previously been reported to the Standards Committee in connection with any complaints regarding the Code of Conduct;

- that the breach clearly arose unintentionally;
- that Councillor Booth had assured the Committee that he would always seek advice in future and declare an interest if in any doubt; and
- based on the above factors the Committee decided that training would be the appropriate sanction; whilst the Committee endorses the principle that openness and transparency should be upheld in local government decision making, Councillor Booth had shown that he recognised that he should have sought advice and made a declaration.

Recommendations to the authority or additional actions

There were no recommendations to the authority. However, the Committee asked for the following statement to be noted for the record.

“Generally, the Committee would take this opportunity to emphasise the importance of regular training and to encourage all elected Members to attend the Standards training that is arranged for Members.”

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

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Chairman of the Standards Committee

Dated: